

STATE OF LOUISIANA
Department of Transportation and Development

REQUEST FOR PROPOSALS
FOR
State Project No. 737-99-1075
Consulting Services Post Audit
Statewide

August 20, 2010

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1.0 GENERAL INFORMATION

This Request for Proposals (RFP) is issued by the Louisiana Department of Transportation and Development (herein referred to as the DOTD) to Individual Consultants/Consulting Firms interested in assisting DOTD with the implementation of Consultant Contract Post Audits. One Prime-Consultant (Consultant) shall be selected for this contract. The Consultant may not subcontract the specified services without the written agreement of DOTD.

1.1 Background

The purpose of this Request for Proposal (RFP) is to obtain competitive proposals from bona fide, qualified Proposers who are interested in providing Consultant Contract Post Audits to the State of Louisiana, Department of Transportation and Development.

1.2 Scope of Services

This position will perform final audits of consultant contracts determining the total amount payable on a contract using the supporting document.

This position will review the final contract and all supplements to the contract, schedule all billing including any sub-consultants. Then will determine audit cost based on the supporting documentation, along with adjustments for the actual experienced overhead. This audited cost is then compared to maximum limits for each part of the contract to develop Audited Billable Cost. The total Audited Billable Cost is compared to the amount paid to determine if the department has additional payments due the consultant or if the consultant owes money back to the department. This position will then prepare a written report for review by the Audit Manager, and then signed and issued by the Audit Director.

- Schedule final contract bills to have them ready for site audit.
- Prepare spreadsheet detailing Cost Billed, audited Cost, Contract Limitations, and set up for Audited Billable Cost.
- As needed may do site reviews of sample cost.

1.3 Definitions

- A. Mandatory Requirements – The terms “shall”, “will”, and “must” denote mandatory requirements.
- B. Permissible Action – The terms “should” and “may” denote an advisory or allowable action.
- C. Agency – Any department, commission, council, board, office, bureau, committee, institution, agency, government, corporation, or other establishment of the executive branch of this state authorized to participate in any contract resulting from this solicitation.
- D. Discussions – For the purposes of this RFP, a formal, structured means of conducting written or oral communications with responsible proposers who submit proposals determined in writing to be reasonably susceptible for being selected for award.

1.4 Goals and Objectives, Performance Measures and Monitoring Plan

Goal and Objectives

The following are the Goals and Objectives for this Project:

- To reduce the current back log of 60 Final Audit Requests on Consultant Contracts by 50%.
- Produce Audit Reports detailing allowable cost and amount due to/from the consultant.
- Research the Final Audit Requests to determine the size of the contract, number of partial billings, and the number of sub-consultants on the contract.

Performance Measures

The services provided by the contractor shall be evaluated to determine that these services are provided in a timely and professional manner by:

- Randy Jarreau, Audit Manager who will develop a quarterly work schedule and review all working paper and reports produced prior to reports being signed and issued by the Audit Director.

Monitoring Plan

DOTD will monitor the performance of the contractor by:

- Comparing deliverables to the quarterly audit plan.
- Reviewing for accuracy all working papers and draft reports.
- Feed back for the Consultants Audited.

1.5 Project Manager

The DOTD Project Manager is Mr. John J. Lyon; he may be reached at (225) 379-1404.

2.0 ADMINISTRATIVE INFORMATION

2.1 Expected Time Period for Contract

The period of any contract resulting from this RFP will be an initial twelve (12) month period tentatively scheduled to begin on **October 15, 2010** through **October 14, 2011**. DOTD has the right to renew the contract for additional two twelve-month periods with the concurrence of the Contractor and all appropriate approvals. In no event shall the contract term exceed 36 months.

2.2 RFP Coordinator

Requests for copies of the RFP and written questions must be directed to the RFP Coordinator listed below:

Ms. Debra L. Guest, P.E.
Consultant Contract Services Administrator
1201 Capitol Access Road, **Room 405-T**
Baton Rouge, LA 70802-4438 or
Post Office Box 94245
Baton Rouge, Louisiana 70804-9245
Telephone: (225) 379-1733

This RFP is available in electronic form at
<http://webmail.dotd.state.la.us/AgreStat.nsf/WebView?OpenPageand>
<http://wwwsrch2.doa.state.la.us/osp/lapac/pubmain.asp>, or in printed form by submitting a
written request to the RFP Coordinator.

2.3 Proposer Inquiries

DOTD shall consider written proposer inquiries regarding RFP requirements or Scope of Services before the date specified in the Calendar of Events. DOTD reserves the right to modify the RFP should a change be identified that is in the best interest of the DOTD.

To be considered, written inquiries and requests for clarification of the content of this RFP must be received at the above address or via fax by 3:00 p.m. CST on the date specified in the Calendar of Events. Any and all questions directed to the RFP Coordinator shall be deemed to require an official response. Official responses to each of the questions presented by the proposer shall be posted on the DOTD Consultant Contract Services and LaPAC websites as an Addendum to the RFP by the deadline shown in the Calendar of Events.

2.4 Calendar of Events

<u>Event</u>	<u>Date</u>
Advertise RFP and mail public announcements	August 20, 2010
Deadline for receiving proposer inquiries	August 26, 2010
Issue responses to proposer inquiries	August 31, 2010
Proposal submission deadline	September 20, 2010
Announce Award of "Successful proposer"	September 27, 2010 (on or about)
Contract execution	October 15, 2010 (on or about)

NOTE: DOTD reserves the right to amend and/or change this schedule of RFP activities, as it deems necessary.

3.0 PROPOSAL INFORMATION

3.1 Proposal Response Location

Proposers who are interested in providing consulting services under this RFP should submit all proposals containing the information specified in Section 4.0. The fully completed original proposal with original signatures by an authorized representative must be received in hard copy

(printed) version by the RFP Coordinator designated above by the deadline date specified in the Calendar of Events. Fax or e-mail submissions are not acceptable.

3.2 *Determination of Responsibility*

Determination of the proposer's responsibility relating to this RFP shall be made according to the standards set forth in LAC 34: 136. DOTD must find that the selected proposer:

- Has adequate financial resources for performance, or has the ability to obtain such resources as required during performance;
- Have the necessary experience, organization, technical qualifications, skills, and facilities, or has the ability to obtain them;
- Is able to comply with the proposed or required time of delivery or performance schedule;
- Has a satisfactory record of integrity, judgment, and performance; and is otherwise qualified and eligible to receive an award under applicable laws and regulations.

3.3 *Desired Qualifications of Proposer*

It is highly desirable that the Proposer should at minimum possess the following qualification at the time of proposal submittal:

- This person should have a degree in accounting
- And an extensive background performing final government audits.

The Proposer should ensure that their proposals contain sufficient information for DOTD to make its determination by presenting acceptable evidence of the above to perform the services called for by the contract.

3.4 *Revisions to the RFP*

DOTD reserves the right to change the calendar of events or revise any part of the RFP by issuing an addendum to the RFP at any time.

3.5 *Waiver of Administrative Informalities*

DOTD reserves the right, at its sole discretion, to waive minor administrative informalities contained in any proposal.

3.6 *Proposal Rejection*

Issuance of this RFP in no way constitutes a commitment by DOTD to award a contract. DOTD reserves the right to accept or reject, in whole or part, all proposals submitted and/or cancel this announcement if it is determined to be in DOTD's best interest.

3.7 *Withdrawal of Proposal*

A proposer may withdraw a proposal that has been submitted at any time up to the date and time the proposal is due. To accomplish this, a written request signed by the authorized representative of the proposer must be submitted to the RFP Coordinator.

3.8 *Subcontracting Information*

DOTD shall have a single Prime-Consultant as the result of any contract negotiation, and that Prime-Consultant shall be responsible for all deliverables referenced in the RFP and proposal. This general requirement notwithstanding, consultants may enter into Sub-Consultant arrangements, however the Prime-Consultant should acknowledge in their proposal total responsibility for the entire contract.

If the proposer intends to subcontract for portions of the work, the proposer should include specific designations of the tasks to be performed by the Sub-Consultant. Information required of the proposer under the terms of this RFP is also required for each Sub-Consultant. Unless provided for in the contract with DOTD, the Prime-Consultant shall not contract with any other party for furnishing any of the work and consulting services herein contracted for without the express written approval of DOTD.

3.9 *Ownership of Proposal*

All materials submitted in response to this request become the property of DOTD. Selection or rejection of a proposal does not affect this right.

3.10 *Proprietary Information*

Only information which is in the nature of legitimate trade secrets or non-published financial data may be deemed proprietary or confidential. Any material within a proposal identified as such must be clearly marked in the proposal and shall be handled in accordance with the Louisiana Public Record Act, R.S. 44: 1-44 and applicable rules and regulations. Any proposal marked as confidential or proprietary in its entirety may be rejected without further consideration or recourse.

3.11 *Cost of Preparing Proposals*

DOTD is not liable for any costs incurred by prospective Consultants prior to issuance of or entering into a contract. Costs associated with developing the proposal, preparing for oral presentations, and any other expenses incurred by the proposer in responding to this RFP are entirely the responsibility of the proposer, and shall not be reimbursed in any manner by DOTD.

3.12 *Errors and Omissions in Proposal*

DOTD shall not be liable for any errors in proposals. DOTD reserves the right to make corrections or amendments to the RFP due to errors identified in proposals by DOTD or the proposer. DOTD, at its option, has the right to request clarification or additional information from the proposers.

3.13 *Contract Award and Execution*

DOTD reserves the right to enter into a Contract without further discussion of the proposal submitted based on the initial offer received. DOTD reserves the right to contract for all or a partial list of services offered in the proposal.

The RFP and proposal of the selected proposer shall become part of any contract initiated by DOTD.

The selected proposer shall be expected to enter into a contract which is basically the same as the sample contract included in Attachment IV. In no event shall a proposer submit its own standard

contract terms and conditions as a response to this RFP. The proposer should submit with their proposal any exceptions or exact contract deviations that their firm wishes to negotiate. Negotiations may begin with the announcement of the selected proposer.

If the contract negotiation period exceeds ten working days or if the selected proposer fails to sign the final contract within ten working days of delivery of it, DOTD may elect to cancel the award and award the contract to the next-highest-ranked proposer.

3.14 Code of Ethics

Proposers are responsible for determining that there shall be no conflict or violation of the Ethics Code if their company is awarded the contract. Ethics issues are interpreted by the Louisiana Board of Ethics.

4.0 RESPONSE INSTRUCTIONS

4.1 Proposal Submission

One original (**stamped original**) shall be, and five copies of the proposal should be, submitted to DOTD. Any proposer failing to submit any of the mandatory information requested in this RFP shall be considered non-responsive.

The proposal should be identified with the State Project No. **737-99-1075** and shall be submitted **prior to 3:00 p.m. CST on Monday, September 20, 2010** by hand delivery or mail addressed to:

Ms. Debra L. Guest, P.E.
Consultant Contract Services Administrator
1201 Capitol Access Road, **Room 405-T**
Baton Rouge, LA 70802-4438 or
Post Office Box 94245
Baton Rouge, Louisiana 70804-9245
Telephone: (225) 379-1733
Fax: (225) 379-1859

The proposal must be signed by those company officials or agents duly authorized to sign proposals or contracts on behalf of the organization. A certified copy of a board resolution granting such authority should be submitted.

It is solely the responsibility of each proposer to assure that their proposal is delivered at the specified place and prior to the deadline for submission. Proposals, which for any reason are not received timely, shall not be considered.

4.2 Cover Letter

A cover letter should be submitted on the Proposer's official business letterhead explaining the intent of the Proposer.

4.3 Proposal Format

The proposer should submit a proposal as specified in Attachment I which shall include adequate information that the proposer has the appropriate experience and qualifications to perform the

scope of services as described herein. The proposer should submit a work plan reflecting their understanding of the project. The proposer should respond to all areas requested.

4.4 Price Proposal

The proposer shall submit a Price Proposal (Attachment II) to perform the services shown in the scope of services.

4.5 Certification Statement

The proposer shall sign and submit the Certification Statement shown in Attachment III.

5.0 EVALUATION AND SELECTION

5.1 Evaluation Team

The evaluation of proposals shall be accomplished by the Project Evaluation Team, which shall determine the proposal most responsive and advantageous to DOTD.

5.2 Administrative and Mandatory Screening

All proposals shall be reviewed to determine compliance with administrative and mandatory requirements as specified in the RFP. Proposals found not to be in compliance shall be rejected from further consideration.

5.3 Evaluation and Review

Each proposal shall be rated for categories one through four, with 0 being the lowest score and 25 being the highest possible score shown for each category.

The proposer with the lowest total price (price for all objectives) shall receive 25 points. Other proposers will receive points for price based upon the following formula:

$$\text{Price Score} = \frac{\text{Lowest Proposed Total Price} \times 25}{\text{Consultant's Proposed Total Price}}$$

CATEGORY	HIGHEST POSSIBLE SCORE
1) Firm experience on similar projects	25
2) Personnel experience as related to the project	25
3) Proposer's understanding of the project (approach and methodology)	25
4) Price	25
Total	100

All proposals shall be evaluated as indicated for Items 1-4. The proposer's ratings in each category shall be added to arrive at the proposer's total score. The Project Evaluation Team shall compile the scores and make a recommendation to the DOTD Secretary based on highest score. The award of a contract is subject to the approval of the Division of Administration, Office of Contractual Review.

5.4 *Announcement of Successful Proposer*

DOTD shall notify the successful proposer and proceed to negotiate terms for final contract. Unsuccessful proposers shall be notified in writing accordingly.

6.0 CONTRACTOR REQUIREMENTS

6.1 *Corporation Requirements*

Upon the award of the contract, if the Contractor is a corporation not incorporated under the laws of the State of Louisiana, the Contractor shall have obtained a certificate of authority pursuant to R. S. 12:301-302 from the Secretary of State of Louisiana prior to the execution of the contract. Upon the award of the contract, if the Consultant is a for-profit corporation whose stock is not publicly traded, the Consultant shall ensure that a disclosure of ownership form has been properly filed with the Secretary of State of Louisiana.

6.2 *Compensation*

Compensation to the Contractor for the services rendered for this project shall consist of the proposed hourly rate by the Contractor for completion of all services, payable as specified in Sub-Section 6.3, Billing and Payment.

6.3 *Billing and Payment*

Payments to the Contractor for services rendered for this Project shall be made monthly based on an itemized invoice showing line item costs incurred. Labor charges shall include the names of the employee(s), their classification, and the time worked. These shall be reimbursed at the contractor's approved billable rate.

The monthly invoice shall show the total amount earned through the date of submission including the direct expenses, with the amount previously paid broken down by hourly rate and direct expense.

The original and two copies of the invoice shall be submitted to the Project Manager. The invoice must be signed, dated, and sealed, by a principal member of the Contractor's firm.

Upon receipt of each invoice, DOTD shall pay the amount due within 30 calendar days.

6.4 *Contract Terms & Conditions*

The proposer shall be required to enter into a Contract with DOTD that is basically the same as Attachment IV. Any changes to those terms shall be negotiated if state law allows such negotiation.

6.5 *Indemnification*

Neither party shall be liable for any delay or failure in performance beyond its control resulting from acts of God or force majeure. The parties shall use reasonable efforts to eliminate or minimize the effect of such events upon performance of their respective duties under Contract.

Consultant shall be fully liable for the actions of its agents, employees, partners or Sub-Consultants and shall fully indemnify and hold harmless DOTD and its Authorized Users from suits, actions, damages and costs of every name and description relating to personal injury

and damage to real or personal tangible property caused by Consultant, its agents, employees, partners or Sub-Consultants, without limitation; provided, however, that the Consultant shall not indemnify for that portion of any claim, loss or damage arising hereunder due to the negligent act or failure to act of DOTD.

Consultant shall indemnify, defend and hold DOTD and its Authorized Users harmless, without limitation, from and against any and all damages, expenses (including reasonable attorneys' fees), claims, judgments, liabilities and costs which may be finally assessed against DOTD in any action for infringement of a United States Letter Patent with respect to the Products furnished, or of any copyright, trademark, trade secret or intellectual property right, provided that DOTD shall give the Consultant: (i) prompt written notice of any action, claim or threat of infringement suit, or other suit, (ii) the opportunity to take over, settle or defend such action, claim or suit at Consultant's sole expense, and (iii) assistance in the defense of any such action at the expense of Consultant. Where a dispute or claim arises relative to a real or anticipated infringement, DOTD or its Authorized Users may require Consultant, at its sole expense, to submit such information and documentation, including formal patent attorney opinions, as the Commissioner of Administration shall require.

The Consultant shall not be obligated to indemnify that portion of a claim or dispute based upon: i) Authorized User's unauthorized modification or alteration of a Product; ii) Authorized User's use of the Product in combination with other products not furnished by Consultant; iii) Authorized User's use in other than the specified operating conditions and environment. In addition to the foregoing, if the use of any item(s) or part(s) thereof shall be enjoined for any reason or if Consultant believes that it may be enjoined, Consultant shall have the right, at its own expense and sole discretion as the Authorized User's exclusive remedy to take action in the following order of precedence: (i) to procure for DOTD the right to continue using such item(s) or part (s) thereof, as applicable; (ii) to modify the component so that it becomes non-infringing equipment of at least equal quality and performance; or (iii) to replace said item(s) or part(s) thereof, as applicable, with non-infringing components of at least equal quality and performance, or (iv) if none of the foregoing is commercially reasonable, then provide monetary compensation to DOTD up to the dollar amount of the Contract.

For all other claims against the Consultant where liability is not otherwise set forth in the Contract as being "without limitation", and regardless of the basis on which the claim is made, Consultant's liability for direct damages, shall be the greater of \$100,000, the dollar amount of the Contract, or two (2) times the charges rendered by the Consultant under the Contract. Unless otherwise specifically enumerated herein or in the work order mutually agreed between the parties, neither party shall be liable to the other for special, indirect or consequential damages, including lost data or records (unless the Consultant is required to back-up the data or records as part of the work plan), even if the party has been advised of the possibility of such damages. Neither party shall be liable for lost profits, lost revenue or lost institutional operating savings. DOTD and Authorized User may, in addition to other remedies available to them at law or equity and upon notice to the Consultant, retain such monies from amounts due Consultant, or may proceed against the performance and payment bond, if any, as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them.

6.5 *Confidentiality*

All financial, statistical, personal, technical and other data and information relating to DOTD's operation which are designated confidential by DOTD and made available to the consultant in order to carry out this contract, or which become available to the Consultant in carrying out this contract, shall be protected by the Consultant from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to DOTD. The identification of all such confidential data and information as well as DOTD's procedural requirements for protection of such data and information from unauthorized use and disclosure shall be provided by DOTD in writing to the Consultant. If the methods and procedures employed by the Consultant for the protection of the Consultant's data and information are deemed by DOTD to be adequate for the protection of DOTD's confidential information, such methods and procedures may be used, with the written consent of DOTD, to carry out the intent of this paragraph. The Consultant shall not be required under the provisions of the paragraph to keep confidential any data or information, which is or becomes publicly available, is already rightfully in the Consultant's possession, is independently developed by the consultant outside the scope of the contract, or is rightfully obtained from third parties. Under no circumstance is the Consultant to discuss and/or release information to the media concerning this project without prior express written approval of the DOTD.

ATTACHMENT I PROPOSAL FORMAT

1. Executive Summary

This section should serve to introduce the purpose and scope of the proposal. It should include administrative information including, at a minimum, response date, proposer contact name and phone number, and the stipulation that the proposal is valid for a time period of one year from the date of submission. This section should include a summary of the proposer's qualifications and ability to meet the DOTD's overall requirements.

It should include a positive statement of compliance with the contract terms. If the proposer cannot comply with any of the contract terms, an explanation of each exception should be supplied. The proposer should address the specific language in Attachment IV and submit whatever exceptions or exact contract modifications that their firm may seek to the sample contract. While final wording shall be resolved during contract negotiations, the intent of the provisions shall not be substantially altered.

2. Corporate Background and Experience

The purpose of this item is to provide information to evaluate the relevant experience, resources, and qualifications of the proposer.

In this section the proposer should provide:

- a. An *organizational chart* displaying overall organizational structure, including sub-consultants.
- b. A *record of prior successful experience* in services similar to that sought through this RFP. Proposals should include the number and a concise description of projects and inclusive dates successfully completed. Proposals should specify the extent of responsibility of key proposed project staff on these prior projects
- c. A *customer references listing* for related work completed in the last twenty-four (24) months. Each reference should include the name and telephone number of a contact person.
- d. A *Statement of the Proposer's other business or contractual obligations* and the involvement in any past or current litigation.
- e. A *Statement that the firm is financially solvent* and capable to provide needed services over the twelve (12) month project period.

DOTD reserves the right to contact references to verify information in the proposal.

3. Proposed Project Staff

The Proposer should provide detailed information about the experience and qualifications of the Proposer's assigned personnel considered key to the success of the project.

This information should include education, training, technical experience, functional experience, specific dates and names of employers, relevant and related experience, past and present projects with dates and responsibilities and any applicable certifications. This should also specifically include the role and responsibilities of each person on this project, their planned level of effort, their anticipated duration of involvement, and their on-site availability. Customer references (name, title, company name, address and telephone number) should be provided for the cited projects in the individual resumes.

- Interested candidates should submit cover letter, resume, and list three professional references (with contact information for each) for key personnel.

If a sub-consultant will be used, the proposer should clearly identify any sub-consultant arrangements, and provide similar information as requested for the Consultant's staff.

4. Approach and Methodology

Proposers should provide:

- Proposer's understanding of the nature of the project and how their proposal will best meet the needs of the DOTD.
- Proposers should define their functional approach in identifying the tasks necessary to meet requirements.
- Provide a proposed Project Work Plan that reflects the approach and methodology, tasks and services to be performed, deliverables, timetables, staffing.

5. Cost Information

- A. The proposer shall provide an hourly rate (which includes labor, overhead and profit). The proposer shall provide an estimate of all expenses, including, supplies, equipment, travel, lodging, conferences, cell phone usage, training, seminars, and all other project expenses.
- B. The proposer shall also provide a total cost for the all of the services described in Section 1.2.
- C. If the Proposer expects to be reimbursed for travel, and project related expenses, then these cost must be included in the Grand total cost (on the price proposal). Any incurred travel cost will be in accordance with the most current State's Travel Regulations as detailed in the Louisiana Travel Guide. (Travel Guide/PPM 49)
- D. The Proposer should use Attachment II to submit pricing information.

Administrative Information

Provide a completed Certification Statement as shown in Attachment III.

ATTACHMENT II - PRICE PROPOSAL

I/We propose to furnish all materials, equipment, travel, and incidentals necessary to provide the scope of services as outlined in this RFP for the sum of:

Year 1	
	(Rate per hour)
	(Direct Expenses)
	(Sub Total)
Year 2	
	(Rate per hour)
	(Direct Expenses)
	(Sub Total)
Year 3	
	(Rate per hour)
	(Direct Expenses)
	(Sub Total)
Grand Total	

Price proposal must include proposed rate per hour, for proposal purposes use 1765 hours per year. Maximum compensation including direct expenses shall not exceed **\$60,000** per year.

NOTE: If Proposer expects to be reimbursed for travel, and all project expenses, then these costs must be included in the Direct Expenses Proposal on the price proposal.

NOTE: All travel related expenses will be compensated under direct expenses and will be in accordance with Louisiana Office of State Travel regulations found at: <http://www.state.la.us/osp/travel/travelOffice.htm>.

Name of Firm/Individual: _____

Address of Firm/Individual: _____

Telephone Number: _____

Signature: _____

Name and Title: _____

Date: _____

ATTACHMENT III
CERTIFICATION STATEMENT

The undersigned hereby acknowledges she/he has read and understands all requirements and specifications of the Request for Proposals (RFP), including attachments.

OFFICIAL CONTACT. DOTD requests that the proposer designate one person to receive all documents and the method in which the documents are best delivered. Identify the Contact name and fill in the information below: (Print Clearly):

Date: _____ Official Contact Name: _____

A. E-mail Address: _____

B. Facsimile Number with area code: (____) _____

C. US Mail Address: _____

D. Telephone Number: _____

Proposer certifies that the above information is true and grants permission to DOTD or Agencies to contact the above named person or otherwise verify the information I have provided.

By its submission of this proposal and authorized signature below, proposer certifies that:

- (1) The information contained in its response to this RFP is accurate;
- (2) Proposer complies with each of the mandatory requirements listed in the RFP and will meet or exceed the functional and technical requirements specified therein;
- (3) Proposer accepts the procedures, evaluation criteria, contract terms and conditions, and all other administrative requirements set forth in this RFP.
- (4) Proposer quote is valid for at least one year from the date of Consultant's signature below;
- (5) Proposer understands that if selected as the successful Consultant, he/she will have ten business days from the date of delivery of final contract in which to complete contract negotiations, if any, and execute the final contract document.

Authorized Signature: _____

Typed or Printed Name: _____

Title: _____

Company Name: _____

Address: _____

City: _____ State: _____ Zip: _____

SIGNATURE of Proposer's Authorized Representative

DATE

ATTACHMENT IV
SAMPLE
CONSULTING SERVICES CONTRACT

STATE OF LOUISIANA
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
CONTRACT FOR CONSULTING SERVICES
STATE PROJECT NO. 737-99-1075
CONSULTANT CONTRACT POST AUDITS
STATEWIDE

Be it known, that on this _____ day of _____, 2010, the Louisiana Department of Transportation and Development (hereinafter sometimes referred to as "**DOTD**") and **XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX**, hereinafter sometimes referred to as "Consultant" do hereby enter into contract under the following terms and conditions.

SCOPE OF SERVICES

To serve as DOTD's Consulting Services Post Audit, the Selected Consultant hereby agrees to furnish the following services:

- To perform final audits of consultant contracts determining the total amount payable on a contract using the supporting document.
- To review the final contract and all supplements to the contract, schedule all billing including any sub-consultants, then determine audit cost based on the supporting documentation and adjustments for the actual experienced overhead.
- Compared audit cost to maximum limits for each part of the contract to develop Audited Billable Cost.
- Compared total Audited Billable Cost to the amount paid to determine if the department has additional payments due the consultant or if the consultant owes money back to the department.
- Prepare a written report for review by the Audit Manager, and final approval by the Audit Director.
- Schedule final contract bills to have them ready for site audit
- Prepare spreadsheet detailing Cost Billed, audited Cost, Contract Limitations, and set up for Audited Billable Cost.

- As needed may do site reviews of sample cost.

TERM OF CONTRACT

This Contract shall begin on _____, **2010** and shall terminate on _____, **2011**, unless modified by a fully executed supplemental contract, approved by the Director of the Office of Contractual Review for a period up to 36 months. Notwithstanding the foregoing, in no event shall this Contract be valid until it has been approved, in writing, by the Director of the Office of Contractual review of the Division of Administration.

DOTD FURNISHED RESOURCES

Mr. John J. Lyon will serve as the DOTD Project Manager for this Contract. The DOTD Project Manager shall provide oversight of the activities conducted hereunder. Notwithstanding the Consultant's responsibilities for the performance of this Contract, the DOTD Project Manager shall be the principal point of contact on behalf of the DOTD and shall be the principal point of contact for Consultant.

TAXES

Consultant hereby agrees that the responsibility for payment of taxes from the funds thus received under this Contract and/or legislative appropriation shall be Consultant's obligation and identified under Federal tax identification number XXXXXXXXXX.

COMPENSATION

In consideration of the services described above, DOTD hereby agrees to pay the Consultant compensation based on a billable rate of \$xxxxxx per hour for a maximum limitation not to exceed \$xxxxxxxxx **per year** including Direct Expenses for the actual work performed.

NOTE: All travel related expenses will be compensated under direct expenses and will be in accordance with Louisiana Office of State Travel regulations (PPM No. 49) found at: <http://www.state.la.us/osp/travel/travelOffice.htm>.

PAYMENT

If progress and/or completion to the reasonable satisfaction of the agency are obtained, payments are scheduled as follows:

- *Monthly*

Payment to the Consultant for services rendered shall be made monthly.

The original and two copies of the invoice reflecting the amount and value of work, accomplished to the date of such submission shall be submitted directly to the **Project Manager, Mr. John J. Lyon**. The invoice must be signed by the Consultant. The invoice shall also show

the total of previous payments because of the contract, and the amount due and payable as of the date of the current invoice. The last invoice that is submitted must say "FINAL INVOICE".

Upon receipt and approval of each invoice, the DOTD shall pay the amount shown to be due and payable within thirty (30) days.

TERMINATION FOR CAUSE

The DOTD may terminate this Contract for cause based upon the failure of the Consultant to comply with the terms and/or conditions of the Contract; provided that the DOTD shall give the Consultant written notice specifying the Consultant's failure. If within thirty (30) days after receipt of such notice, the Consultant shall not have either corrected such failure or, in the case which cannot be corrected in thirty (30) days, begun in good faith to correct said failure and thereafter proceeded diligently to complete such correction, then the DOTD may, at its option, place the Consultant in default and the Contract shall terminate on the date specified in such notice. The Consultant may exercise any rights available to it under Louisiana law to terminate for cause upon the failure of the DOTD to comply with the terms and conditions of this contract; provided that the Consultant shall give the DOTD written notice specifying the DOTD's failure and a reasonable opportunity for the state to cure the defect.

Consultant may exercise any rights available to it under Louisiana law to terminate for cause upon the failure of the DOTD to comply with the terms and conditions of this Contract provided that the Consultant shall give the DOTD written notice specifying the DOTD's failure and a reasonable opportunity for the DOTD to cure the defect.

TERMINATION FOR CONVENIENCE

The DOTD may terminate the Contract at any time by giving thirty (30) days written notice to the Consultant. The Consultant shall be entitled to payment for deliverables in progress, to the extent work has been performed satisfactorily.

TERMINATION FOR NON-APPROPRIATION OF FUNDS

The continuation of this Contract is contingent upon the appropriation of funds by the legislature to fulfill the requirements of the Contract. If the legislature fails to appropriate sufficient monies to provide for the continuation of the Contract, or if such appropriation is reduced by the veto of the Governor or by any means provided in the appropriations act of Title 39 of the Louisiana Revised Statutes of 1950 to prevent the total appropriation for the year from exceeding revenues for that year, or for any other lawful purpose, and the effect of such reduction is to provide insufficient monies for the continuation of the Contract, the Contract shall terminate on the date of the beginning of the first fiscal year for which funds have not been appropriated.

REMEDIES FOR DEFAULT

Any claim or controversy arising out of this contract shall be resolved by the provisions of LSA - R.S. 39:1524 - 1526.

INDEMNIFICATION & LIMITATION OF LIABILITY

Neither party shall be liable for any delay or failure in performance beyond its control resulting from acts of God or force majeure. The parties shall use reasonable efforts to eliminate or minimize the effect of such events upon performance of their respective duties under Contract.

Consultant shall be fully liable for the actions of its agents, employees, partners or Sub-Consultants and shall fully indemnify and hold harmless the DOTD and its authorized users from suits, actions, damages and costs of every name and description relating to personal injury and damage to real or personal tangible property caused by Consultant, its agents, employees, partners or Sub-Consultants, without limitation; provided, however, that the Consultant shall not indemnify for that portion of any claim, loss or damage arising hereunder due to the negligent act or failure to act of the DOTD.

Consultant shall indemnify, defend and hold the DOTD and its authorized users harmless, without limitation, from and against any and all damages, expenses (including reasonable attorneys' fees), claims, judgments, liabilities and costs which may be finally assessed against the DOTD in any action for infringement of a United States Letter Patent with respect to the Products furnished, or of any copyright, trademark, trade secret or intellectual property right, provided that the DOTD shall give the Consultant: (i) prompt written notice of any action, claim or threat of infringement suit, or other suit, (ii) the opportunity to take over, settle or defend such action, claim or suit at Consultant's sole expense, and (iii) assistance in the defense of any such action at the expense of Consultant. Where a dispute or claim arises relative to a real or anticipated infringement, the DOTD or its authorized users may require Consultant, at its sole expense, to submit such information and documentation, including formal patent attorney opinions, as the Commissioner of Administration shall require.

The Consultant shall not be obligated to indemnify that portion of a claim or dispute based upon: i) authorized user's unauthorized modification or alteration of a Product; ii) authorized user's use of the Product in combination with other products not furnished by Consultant; iii) authorized user's use in other than the specified operating conditions and environment.

In addition to the foregoing, if the use of any item(s) or part(s) thereof shall be enjoined for any reason or if Consultant believes that it may be enjoined, Consultant shall have the right, at its own expense and sole discretion as the authorized user's exclusive remedy to take action in the following order of precedence: (i) to procure for the DOTD the right to continue using such item(s) or part (s) thereof, as applicable; (ii) to modify the component so that it becomes non-infringing equipment of at least equal quality and performance; or (iii) to replace said item(s) or part(s) thereof, as applicable, with non-infringing components of at least equal quality and performance, or (iv) if none of the foregoing is commercially reasonable, then provide monetary compensation to the DOTD up to the dollar amount of the Contract.

For all other claims against the Consultant where liability is not otherwise set forth in the Contract as being "without limitation", and regardless of the basis on which the claim is made, Consultant's liability for direct damages, shall be the greater of \$100,000, the dollar amount of the Contract, or two (2) times the charges rendered by the Consultant under the Contract. Unless otherwise specifically enumerated herein or in the work order mutually agreed between the parties, neither party shall be liable to the other for special, indirect or consequential damages, including lost data or records (unless the Consultant is required to back-up the data or records as

part of the work plan), even if the party has been advised of the possibility of such damages. Neither party shall be liable for lost profits, lost revenue or lost institutional operating savings.

The DOTD and authorized user may, in addition to other remedies available to them at law or equity and upon notice to the Consultant, retain such monies from amounts due Consultant, or may proceed against the performance and payment bond, if any, as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them.

FUND USE

Consultant agrees not to use Contract proceeds to urge any elector to vote for or against any candidate or proposition on an election ballot nor shall such funds be used to lobby for or against any proposition or matter having the effect of law being considered by the Louisiana Legislature or any local governing authority. This provision shall not prevent the normal dissemination of factual information relative to a proposition on any election ballot or a proposition or matter having the effect of law being considered by the Louisiana Legislature or any local governing authority.

OWNERSHIP

All records, reports, documents and other material delivered or transmitted to Consultant by DOTD shall remain the property of DOTD, and shall be returned by Consultant to DOTD, at Consultant's expense, at termination or expiration of this contract. All records, reports, documents, or other material related to this contract and/or obtained or prepared by Consultant in connection with the performance of the services contracted for herein shall become the property of DOTD, and shall, upon request, be returned by Consultant to DOTD, at Consultant's expense, at termination or expiration of this contract.

NONASSIGNABILITY

No Consultant shall assign any interest in this contract by assignment, transfer, or novation, without prior written consent of the DOTD. This provision shall not be construed to prohibit the Consultant from assigning his bank, trust company, or other financial institution any money due or to become due from approved contracts without such prior written consent. Notice of any such assignment or transfer shall be furnished promptly to the DOTD.

RIGHT TO AUDIT

The DOTD Auditor, State Legislative auditor, federal auditors and internal auditors of the Division of Administration, or others so designated by the DOA, shall have the option to audit all accounts directly pertaining to the Contract for a period of five (5) years from the date of the last payment made under this Contract. Records shall be made available during normal working hours for this purpose.

CONTRACT MODIFICATION

No amendment or variation of the terms of this Contract shall be valid unless made in writing, signed by the parties and approved as required by law. No oral understanding or agreement not incorporated in the Contract is binding on any of the parties.

CONFIDENTIALITY OF DATA

All financial, statistical, personal, technical and other data and information relating to the DOTD's operation which are designated confidential by the DOTD and made available to the Consultant in order to carry out this Contract, or which become available to the Consultant in carrying out this Contract, shall be protected by the Consultant from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to the DOTD. The identification of all such confidential data and information as well as the DOTD's procedural requirements for protection of such data and information from unauthorized use and disclosure shall be provided by the DOTD in writing to the Consultant. If the methods and procedures employed by the Consultant for the protection of the Consultant's data and information are deemed by the DOTD to be adequate for the protection of the DOTD's confidential information, such methods and procedures may be used, with the written consent of the DOTD, to carry out the intent of this paragraph. The Consultant shall not be required under the provisions of the paragraph to keep confidential any data or information which is or becomes publicly available, is already rightfully in the Consultant's possession, is independently developed by the Consultant outside the scope of the Contract, or is rightfully obtained from third parties. In accordance with the requirements of the Division of Archeology, the Consultant shall maintain the confidentiality of the location of archaeological sites.

COST RECORDS

The Consultant and its sub-consultants shall maintain all books, documents, papers, accounting records and other evidence pertaining to cost incurred relative to this project. Costs shall be accordance with 48 CFR 31 of the (FARS), as modified by DOTD audit guidelines, and which are incorporated herein by reference as if copied in extensor. The FARS is available for inspection through www.transportation.org. Records shall be retained until such as an audit is made by DOTD or the Consultant is released in writing by the DOTD Audit Director, at which time the Consultant may dispose of such records. The Consultant shall, however, retain such records for a minimum of five years from the date of payment of the last estimate under this Contract or the release of all retain age for this Contract, whichever occurs later, for inspection by DOTD and/or Legislative Auditor and the FHWA or General Accounting (GAO) under State and Federal Regulations effective as of the date of this Contract.

FISCAL FUNDING

The continuation of this contract is contingent upon the appropriation of funds to fulfill the requirements of the contract by the legislature. If the legislature fails to appropriate sufficient monies to provide for the continuation of the contract, or if such appropriation is reduced by the veto of the Governor or by any means provided in the appropriations act to prevent the total appropriation for the year from exceeding revenues for that year, or for any other lawful purpose, and the effect of such reduction is to provide insufficient monies for the continuation of the contract, the contract shall terminate on the date of the beginning of the first fiscal year for which funds are not appropriated.

SUB-CONSULTANTS

The Consultant may, with prior written permission from the DOTD, enter into subcontracts with

third parties for the performance of any part of the Consultants duties and obligations. In no event shall the existence of a subcontract operate to release or reduce the liability of the Consultant to the DOTD for any breach in the performance of the Consultant's duties.

DISCRIMINATION CLAUSE

The contractor agrees to abide by the requirements of the following as applicable: Title VI of the Civil Rights Act of 1964 and Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, Federal Executive Order 11246 as amended, the Rehabilitation Act of 1973, as amended, the Vietnam Era Veteran's Readjustment Assistance Act of 1974, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, the Fair Housing Act of 1968 as amended, and contractor agrees to abide by the requirements of the Americans with Disabilities Act of 1990.

Consultant agrees not to discriminate in its employment practices, and shall render services under this contract without regard to race, color, religion, sex, sexual orientation, national origin, veteran status, political affiliation, or disabilities.

Any act of discrimination committed by Consultant, or failure to comply with these statutory obligations when applicable shall be grounds for termination of this contract.

INSURANCE

Licensed and Non-Licensed Motor Vehicles: The Consultant will maintain during the life of the contract Automobile Liability Insurance as required by the State of Louisiana.

APPLICABLE LAW

This Contract shall be governed by and interpreted in accordance with the laws of the State of Louisiana. Venue of any action brought with regard to this Contract shall be in the Nineteenth Judicial District Court, parish of East Baton Rouge, State of Louisiana.

CODE OF ETHICS

The Consultant acknowledges that Chapter 15 of Title 42 of the Louisiana Revised Statutes (R.S. 42:1101 et. seq., Code of Governmental Ethics) applies to the Contracting Party in the performance of services called for in this Contract. The Consultant agrees to immediately notify the DOTD if potential violations of the Code of Governmental Ethics arise at any time during the term of this Contract.

SEVERABILITY

If any term or condition of this Contract or the application thereof is held invalid, such invalidity shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition, or application; to this end the terms and conditions of this Contract are declared severable.

ORDER OF PRECEDENCE

In the event of any inconsistent or incompatible provisions, this signed agreement (excluding the RFP and Contractor's proposal) shall take precedence, followed by the provisions of the RFP, and then by the terms of the Contractor's proposal.

ENTIRE AGREEMENT

This contract, together with the RFP and addenda issued thereto by the Department, the proposal submitted by the Contractor in response to the Department's RFP, and any exhibits specifically incorporated herein by reference, constitute the entire agreement between the parties with respect to the subject matter.